UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA
Civil No. 16-2007(DSD/TNL)

Steven E. Rousseau,

      Plaintiff,

v.   **ORDER**

Dr. Kyleean Stevens, SPRTC,

      Defendant.

This matter is before the court upon the application to proceed on appeal without prepayment of fees by petitioner Steven E. Rousseau. A litigant who seeks to be excused from paying the filing fee for an appeal may apply for IFP status under 28 U.S.C. § 1915. See also Fed. R. App. P. 24(a). To qualify for IFP status, the litigant must demonstrate that he cannot afford to pay the full filing fee. 28 U.S.C. § 1915(a)(1).

Rousseau's IFP application demonstrates that he has little income and few assets. ECF No. 8, at 1-4. As a result, the court finds that Rousseau is financially eligible for IFP status. Even if a litigant is found to be indigent, however, IFP status will be denied if the court finds that the litigant's appeal is not taken in "good faith." 28 U.S.C. § 1915(a)(3). Good faith in this context is judged by an objective standard and not by the subjective beliefs of the appellant. Coppedge v. United States, 369 U.S. 438, 444-45 (1962). To determine whether an appeal is taken in good faith, the court must decide whether the claims to be

decided on appeal are factually or legally frivolous. Id. at 445.

An appeal is frivolous, and therefore cannot be taken in good

faith, "where it lacks an arguable basis either in law or in fact."

Neitzke v. Williams, 490 U.S. 319, 325 (1989).

Although the court remains fully satisfied that Rousseau's

complaint under 42 U.S.C. § 1983 was properly dismissed, his appeal

is not "frivolous," as that term has been defined by the Supreme

Court. As a result, the appeal is considered to be taken "in good

faith" for purposes of 28 U.S.C. § 1915(a)(3), and the IFP

application will be granted.

Accordingly, based on the above, **IT IS HEREBY ORDERED** that

Rousseau's application to appeal in forma pauperis [ECF No. 8] is

granted.

Dated: September 22, 2016

s/David S. Doty
David S. Doty, Judge
United States District Court

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